

Agency 51

**Department of Labor—
Division of Workers Compensation**

Editor's Note:

The Kansas Department of Human Resources was renamed the Kansas Department of Labor by Executive Reorganization Order No. 31. See L. 2004, Ch. 191.

Editor's Note:

This agency was formerly entitled "Workmen's Compensation Director," see Executive Reorganization Order No. 14 (L. 1976, ch. 354).

Articles

51-3. TERMINATION OF COMPENSABLE CASES.

51-7. MEASUREMENT OF DISABILITY.

51-9. MEDICAL AND HOSPITAL.

**Article 3.—TERMINATION OF
COMPENSABLE CASES**

51-3-8. Pretrial stipulations. The parties shall be prepared at the first hearing to agree on the claimant's average weekly wage, unless the weekly wage is to be made an issue in the case.

(a) Before the first hearing takes place, the parties shall exchange medical information and confer as to what issues can be stipulated to and what issues are to be in dispute in the case. The following stipulations shall be used by the parties in every case:

QUESTIONS TO CLAIMANT

- (1) In what county is it claimed that claimant met with personal injury by accident? If in a different county from that in which the hearing is held, then the parties shall stipulate that they consent to the conduct of the hearing in the county in which it is being held.
- (2) Upon what date is it claimed that claimant met with personal injury by accident?
- (3) Upon what date is it claimed that claimant met with personal injury by repetitive trauma?

QUESTIONS TO RESPONDENT

- (4) Does respondent admit that claimant met with personal injury by accident on the date alleged?
- (5) Does respondent admit that claimant met

with personal injury by repetitive trauma on the date alleged?

- (6) Does respondent admit that claimant's alleged personal injury "arose out of and in the course" of claimant's employment?
- (7) Does respondent admit proper notice?
- (8) Does respondent admit that the relationship of employer and employee existed?
- (9) Does respondent admit that the parties are covered by the Kansas workers compensation act?
- (10) Did the respondent have an insurance carrier on the date of the alleged accident? If so, what is the name of the insurance company? Was the respondent self-insured?
- (11) Does respondent admit that the accident or repetitive trauma was the prevailing factor causing the injury, the medical condition, and the resulting disability or impairment?

QUESTIONS TO BOTH PARTIES

- (12) What was the average weekly wage?
- (13) Has any compensation been paid?
- (14) Has any medical or hospital treatment been furnished? Is claimant making claim for any future medical treatment?
- (15) Has claimant incurred any medical or hospital expense for which reimbursement is claimed?
- (16) What was the nature and extent of the dis-

- ability suffered as a result of the alleged injury?
- (17) What medical and hospital expenses does the claimant have?
 - (18) What are the additional dates of temporary total disability, if any are claimed?
 - (19) Is the workers compensation fund to be impleaded as an additional party?
 - (20) Have the parties agreed upon a functional impairment rating?

The same stipulations shall be used in occupational disease cases, except that questions regarding "personal injury" shall be changed to discover facts concerning "disability from occupational disease" or "disablement."

(b) An informal pretrial conference shall be held in each contested case before testimony is taken in a case. At these conferences the administrative law judge shall determine from the parties what issues have not been agreed upon. If the issues cannot be resolved, the stipulations and issues shall be made a part of the record.

(c) The respondent shall be prepared to admit any and all facts that the respondent cannot justifiably deny and to have payrolls available in proper form to answer any questions that might arise as to the average weekly wage. Evidence shall be confined to the matters actually ascertained to be in dispute. The administrative law judge shall not be bound by rules of civil procedure or evidence. Hearsay evidence may be admissible unless irrelevant or redundant.

(d) All parties shall be given reasonable opportunity to be heard. The testimony taken at the hearing shall be reported and transcribed. That testimony, together with documentary evidence introduced, shall be filed with the division of workers compensation, where the evidence shall become a permanent record. Each award or order made by the administrative law judge shall be set forth in writing, with copies mailed to the parties.

(e) Permission to withdraw admissions or stipulations shall be decided by the administrative law judge, depending on the circumstances in each instance.

(f) Subpoena forms shall be furnished by the director upon request. The party subpoenaing witnesses shall be responsible for the completion, service, and costs in connection with the subpoenas. (Authorized by K.S.A. 44-573; implementing K.S.A. 2010 Supp. 44-523, as amended by L. 2011, ch. 55, sec. 17, and K.S.A. 2010 Supp. 44-

551; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended Jan. 1, 1974; amended May 1, 1976; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended May 22, 1998; amended Dec. 23, 2011.)

Article 7.—MEASUREMENT OF DISABILITY

51-7-8. Computation of compensation.

(a)(1) If a worker suffers a loss or the loss of use to a member and, in addition, suffers other injuries contributing to the temporary total disability, compensation for the temporary total disability shall not be deductible from the scheduled amount for those weeks of temporary total disability attributable to the other injuries.

(2) The weekly compensation rate for temporary total compensation shall be computed by multiplying .6667 times the worker's average weekly wage. This figure shall be subject to the statutory maximum set in K.S.A. 44-510c, and amendments thereto.

(b) If a healing period of 10% of the schedule or partial schedule is granted, not exceeding 15 weeks, the healing period shall be added to the weeks on the schedule or partial schedule before the following computations are made.

(1) If a loss of or the loss of use occurs to a scheduled member of the body, compensation shall be computed as follows:

(A) Deduct the number of weeks of temporary total compensation from the schedule;

(B) multiply the difference by the percent of loss or the loss of use to the member; and

(C) multiply the result by the applicable weekly temporary total compensation rate.

(2) If part of a finger, thumb, or toe is amputated, compensation shall be calculated as follows:

(A) Multiply the percent of loss, as governed by K.S.A. 44-510d, and amendments thereto, by the number of weeks on the full schedule for that member;

(B) deduct the temporary total compensation; and

(C) multiply the remainder by the weekly temporary total compensation rate.

(3) If a scheduled member other than a part of a finger, thumb, or toe is amputated, compensation shall be computed by multiplying the number of weeks on the schedule by the worker's weekly temporary total compensation rate. The temporary total compensation previously paid shall be

deducted from the total amount allowed for the member.

(c)(1) Each injury involving the metacarpals shall be considered an injury to the hand. Each injury involving the metatarsals shall be considered an injury to the foot.

(2) If the injury results in loss of use of one or more fingers and also a loss of use of the hand, the compensation payable for the injury shall be on the schedule for the hand. The percentage of permanent partial loss of use of the hand shall be at least sufficient to equal the compensation payable for the injuries to the finger or fingers alone.

(3) Each injury involving the hip joint shall be computed on the basis of a disability to the body as a whole.

(4) Each injury at the joint on a scheduled member shall be considered a loss to the next higher schedule.

(5) If the tip of a finger, thumb, or toe is amputated, the amputation does not go through the bone, and it is determined that a disability exists, the disability rating shall be based on a computation of a partial loss of use of the entire finger. (Authorized by K.S.A. 44-573; implementing K.S.A. 44-510d, as amended by 2011 HB 2134, sec. 8; effective Jan. 1, 1966; amended Jan. 1, 1971; amended Jan. 1, 1973; amended, E-74-31, July 1, 1974; amended May 1, 1975; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1983; amended, T-88-20, July 1, 1987; amended May 1, 1988; amended May 22, 1998; amended Nov. 28, 2011.)

Article 9.—MEDICAL AND HOSPITAL

51-9-7. Fees for medical and hospital services. Fees for medical, surgical, hospital, dental, and nursing services, medical equipment, medical supplies, prescriptions, medical records, and medical testimony rendered pursuant to the Kansas workers compensation act shall be the lesser of the following:

(a) The usual and customary charge of the health care provider, hospital, or other entity providing the health care services; or

(b) the amount allowed by the “schedule of medical fees” published by the Kansas department of labor, dated January 1, 2014, and approved by the director of workers compensation on April 30, 2013, including the ground rules incorporated in the schedule and the appendix, which is hereby adopted by reference.

This regulation shall be effective on and after January 1, 2014. (Authorized by and implementing K.S.A. 2013 Supp. 44-510i; effective Jan. 1, 1966; amended Jan. 1, 1969; amended Jan. 1, 1973; amended May 1, 1976; amended May 1, 1978; amended, T-88-20, July 1, 1987; amended May 1, 1988; amended Nov. 1, 1993; amended April 5, 1996; amended Aug. 29, 1997; amended Oct. 1, 1999; amended Dec. 1, 2001; amended Dec. 1, 2003; amended Dec. 2, 2005; amended Jan. 1, 2008; amended Jan. 1, 2010; amended Jan. 1, 2011; amended Jan. 1, 2012; amended Jan. 1, 2014.)

51-9-15. (Authorized by K.S.A. 74-717, 44-557a, 44-573; implementing K.S.A. 44-557a, 74-716; effective Aug. 9, 2002; revoked July 19, 2013.)

51-9-17. Release 3 standards for trading partner profiles; submission of data; first reports of injury.

(a) Each insurer, group-funded workers compensation pool, and self-insured employer shall participate in the electronic data interchange (EDI) program and shall submit to the director a completed EDI trading partner profile at least 30 days before submitting claim information pursuant to the international association of industrial accident boards and commissions’ release 3 standards, as provided in K.S.A. 44-557a and amendments thereto. The EDI trading partner profile shall be completed according to the “Kansas EDI release 3 guide for reporting first (FROI) and subsequent (SROI) reports of injury” as revised on October 16, 2012 by the Kansas department of labor and hereby adopted by reference. This document shall be referred to as the “Kansas EDI release 3 guide” in this regulation.

(b) Each insurer, group-funded workers compensation pool, and self-insured employer shall report to the director within five days any changes to information submitted in the EDI trading partner profile.

(c) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, by electronic data interchange shall be submitted according to the Kansas EDI release 3 guide.

(d) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, and the Kansas EDI release 3 guide’s first report of injury, commonly called “FROI 00,” shall be considered the filing of an accident report pursuant to K.S.A. 44-557, and amendments thereto. This information shall not be open to public inspection,

except as provided in K.S.A. 44-550b and amendments thereto.

(e) All claim information submitted pursuant to K.S.A. 44-557a, and amendments thereto, and the Kansas EDI release 3 guide shall be considered a medical record to the extent that the information refers to an individual worker's identity. No references in the claim information to an individual worker's identity shall be open to public inspection, except as provided in K.S.A. 44-550b and amendments thereto. For purposes of this regulation, the claim number used by an insurance carrier, self-insured employer, or group-funded workers compensation pool to identify an individual worker's claim shall be considered a reference to the individual worker's identity.

(f) On or before the compliance dates specified in paragraphs (g)(1)-(3), each insurer shall file claim information for all "lost time/indemnity" and "denied" cases through EDI rather than by submitting paper forms. The insurer shall file the electronic form in accordance with the Kansas EDI release 3 guide.

(g) Each insurer shall comply with the implementation schedule for reporting electronic FROI or SROI specified in this subsection. The insurer's implementation schedule shall be one of three "test-to-production" periods as specified in para-

graphs (g)(1)-(3). Each insurer shall be assigned to the first, second, or third test-to-production period by the director. Each claim administrator voluntarily submitting claims as EDI filings in production status using the international association of industrial accident boards and commissions' (IAIABC's) release 1 national standard shall convert to release 3 and shall be in production status by the same date as that required for the first group of insurers specified in paragraph (g)(1). Each test-to-production period shall consist of three calendar months.

(1) The compliance date for the first test-to-production period shall be April 1, 2013. The compliance date for that insurer's implementation schedule shall be June 30, 2013.

(2) The compliance date for the second test-to-production period shall be July 1, 2013. The compliance date for that insurer's implementation schedule shall be September 30, 2013.

(3) The compliance date for the third test-to-production period shall be October 1, 2013. The compliance date for that insurer's implementation schedule shall be December 31, 2013. (Authorized by K.S.A. 44-573 and K.S.A. 74-717; implementing K.S.A. 2011 Supp. 44-550b, K.S.A. 44-557, K.S.A. 2011 Supp. 44-557a, and K.S.A. 74-716; effective Jan. 1, 2004; amended June 17, 2005; amended Feb. 8, 2013.)